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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 RICKEY A. BEAVER,

11 Plaintiff,

12 v.

13 WESTERN STATE HOSPITAL, et al.,

14 Defendants.

Case No. C10-5132BHS

ORDER DIRECTING SERVICE
BY UNITED STATES MARSHAL
AND PROCEDURES

15 Plaintiff was granted leave to proceed *in forma pauperis* on March 3, 2010. Dkt. 2.

16 Pursuant to Fed. R. Civ. P. 4(c)(3), the Clerk is directed to effect service as provided
below:

17 (1) Service by United States Marshal.

18 It is hereby ORDERED that the United States Marshal shall send the following to
19 each named Defendant by first class mail: a copy of the complaint (Dkt. 3) and of this order,
20 a copy of the Summons in a Civil Case, two copies of the Notice of Lawsuit and Request for
21 Waiver of Service of Summons, a Waiver of Service of Summons, and a return envelope,
22 postage prepaid, addressed to the Clerk's Office. All costs of service shall be advanced by
23 the United States. The Clerk shall assemble the necessary documents to effect service.

24 (2) Response Required

25 Defendants shall have **thirty (30) days** within which to return the enclosed Waiver of
26 Service of Summons. Each defendant who timely returns the signed Waiver shall have **sixty**

1 **(60) days** after the date designated on the Notice of Lawsuit to file and serve an answer or a
2 motion directed to the complaint, as permitted by Rule 12 of the Federal Rules of Civil
3 Procedure.

4 Any defendant who fails to timely return the signed Waiver will be personally served
5 with a summons and complaint, and may be required to pay the full costs of such service,
6 pursuant to Rule 4(d)(2). A defendant who has been personally served shall file an answer
7 or motion permitted under Rule 12 within **thirty (30) days** after service.

8 (3) Filing and Service by Parties, Generally.

9 All original documents and papers submitted for consideration by the Court in this
10 case are to be filed with the Clerk of this Court. The papers shall be accompanied by proof
11 that such documents have been served upon counsel for the opposing party (or upon any
12 party acting *pro se*). The proof shall show the day and manner of service and may be
13 written acknowledgment of service, by certificate of a member of the bar of this Court, or by
14 affidavit of the person who served the papers.

15 (4) Motions.

16 Any request for Court action shall be set forth in a motion, properly filed and served.
17 A party must file and serve with the motion a supporting memorandum. The motion shall
18 include in its caption (immediately below the title of the motion) a designation of the Friday
19 upon which the motion is to be noted upon the Court's calendar, as set forth in Local Rule
20 CR 7.

21 (5) Motions for Summary Judgment

22 If one of the parties files a motion for summary judgment pursuant to Federal Rules
23 of Civil Procedure 56, the opposing party should acquaint him/herself with Rule 56. Rule
24 56 requires a nonmoving party to submit affidavits or other evidence in opposition to a
25 motion for summary judgment if the moving party has shown the absence of issues of
26 material fact and an entitlement to judgment as a matter of law. A nonmoving party may not
27 rest upon the mere allegations or denials of prior pleadings. Rather, successful opposition to
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1 a motion for summary judgment requires the nonmoving party to set forth, through affidavits
2 or other evidence, specific facts showing a genuine issue for trial. Failure by the nonmoving
3 party to oppose a summary judgment motion or to present counter evidence could result in
4 the Court accepting the moving party's evidence as the truth, and entering final judgment in
5 favor of the moving party without a full trial. *Rand v. Rowland*, 113 F.3d 1520 (9th Cir.
6 1997).

7 DATED this 18th day of March, 2010.



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9 BENJAMIN H. SETTLE
10 United States District Judge
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